

REMARKS

Provisional Double Patenting Rejection

The examiner provisionally rejected claims 1, 9-11, 18-19 and 21-22 under the judicially created doctrine of obviousness type double patenting as being unpatentable over claims 1, 9-11, and 19-22 of copending application 09/764,748. Although the applicant does not agree with the examiner's rejection, the applicant notes that, upon receipt of an indication of allowance of claims 1, 9-11, 18-19 and 21-22, a Terminal Disclaimer can be filed to overcome any sustainable double-patenting rejection.

Claim Rejections—35 U.S.C. § 102

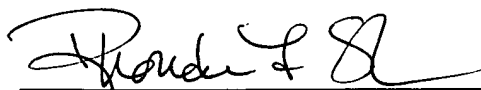
The examiner rejected claims 1-28 and 30-32 as being anticipated by Picco (US 6,029,045).

Amended claim 1 recites collecting information about a characteristic of at least one of the hardware and software that is present on the receiver. At a minimum, Picco fails to disclose this limitation. For example, the characteristics relied upon by the examiner all relate to user preferences and not the characteristics of the receiver proper such as the hardware and software components of the receiver. *See, e.g.*, column 6, lines 34-37; column 10, lines 58-62, and column 11, lines 9-13. For at least this reason, claim 1 and the claims dependent thereon are distinguished over Picco. Under a similar analysis, independent claims 11 and 21 and their respective dependent claims are also distinguished over Picco.

In view of the amendments and remarks herein, the application is believed to be in condition for allowance. The examiner's prompt action in accordance therewith is respectfully requested. The commissioner is authorized to charge any additional fees, including extension of time fees, or credit any overpayment to Deposit Account No. 20-1504 (BKA.0008US)

Respectfully submitted,

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